

DEO Subcommittee Proposal for Changes to Appointments to Outside Organizations. Meeting August 31, 2007. Item 2.

The City Attorney's Office has reviewed the most recent language provided us in a July 25, 2007 memorandum from James Ingram for a proposed ballot measure intended to provide the Mayor with sole authority to nominate all City representatives to all outside agencies, subject to the City Council's confirmation, especially in those instances where the state or federal law governing those agencies specifically gives that appointment authority to the City Council.

We do not provide alternative language to accomplish this because we conclude such language would be void and unenforceable. It would conflict with specific general laws relating to matters that are not solely municipal affairs of the City. Charter section 265(b)(13) is an accurate reflection of this principal, providing the Mayor with "(13) Sole authority to appoint City representatives to boards, commissions, committees and governmental agencies, unless controlling law vests the power of appointment with the City Council or a City Official other than the Mayor."

The City Charter *may* properly control the appointment authority for *City* groups. In our opinion, it *may not* control the appointment authority specifically vested in a specific City Official by a state or federal law governing an outside agency.

Proposed language from Staff.

"A) For all agencies, boards, commissions, committees, or other entities for which state or federal law requires or authorizes the City Council to act as the appointing authority, the following appointment procedure shall be employed:

- 1) The Mayor shall nominate each member of the agency, board, commission, committee or other entity, subject to confirmation by the City Council.
- 2) The City Council may recommend individuals to be nominated, subject to the Mayor's consideration of any nomination to be made.
- 3) The City Council shall act to appoint or reject the Mayor's nominee within forty five (45) days after submission of the nomination to the City Council.
- 4) If the Mayor fails to nominate a member within ninety (90) days after a vacancy first exists, the City Council shall appoint the member.
- 5) If the Mayor submits a nomination to the City Council within said ninety (90) day period and the City Council rejects the nominee, the Mayor shall make a new nomination and the ninety (90) day nomination period shall commence on the date of said rejection.

B) The nomination procedure set forth in section A, above, shall not apply to a redevelopment agency or housing authority established under state law where the City Council has declared itself to be the agency or authority."